

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 DODE-00
DOTE-00 INR-10 NSAE-00 FAA-00 L-03 COM-02 /038 R

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CAB:HASWALL
EUR/NE:DGOODMAN

-----037842 062317Z /61

P 062229Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY BRUSSELS PRIORITY

C O N F I D E N T I A L STATE 170741

E.O. 11652: N/A

TAGS: EAIR, BE

SUBJECT: PAN AM FARES

REF: A) BRUSSELS 12868, B) BRUSSELS 12871, C) STATE 165113

1. USG VIEW IS THAT THE PAN AM FARES ARE VALID AS FILED AND CAN COME INTO EFFECT IMMEDIATELY. GOB HAS NOT ISSUED PROPER NOTICE OF DISSATISFACTION WITH THESE FARES AS REQUIRED BY SECTION V OF THE ANNEX TO THE 1946 US-GOB AIR TRANSPORT SERVICES AGREEMENT. IN FACT, GOB HAS NOT COMMUNICATED AT ALL WITH USG RE THIS MATTER. ABSENT A PROPER NOTICE OF DISSATISFACTION, USG POSITION IS THAT GOB HAS FORFEITED OPPORTUNITY TO TAKE NEGATIVE ACTION ON FARES; THIS CONCLUSION IS FURTHER SUPPORTED BY FACT THAT ORIGINAL PAN AM FILING THIS FARE MADE ON APRIL 12. GOB RESPONDED NEGATIVELY ON MAY 3 IN LETTER ONLY TO PAN AM. PAN AM THEN SENT LETTER ON MAY 29 WHICH WAS REFERRED TO IN CONFIDENTIAL

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GOB RESPONSE CITED REF C. ALMOST 3 MONTHS HAVE LAPSED SINCE ORIGINAL PAN AM FILING. USG SIMPLY CANNOT ACCEPT SUCH A GOB REJECTION OF THESE FARES.

2. FURTHERMORE, EMBASSY QUITE CORRECT IN PARA 3, REF B IN ITS JUDGMENT THAT GOB ACTION NEGATES AT LEAST THE SPIRIT OF THE OCTOBER, 1977, MOC, SPECIFICALLY PARA 3 OF THE MOC.

3. DEPARTMENT HAS EVALUATED DGAC ARGUMENT WHICH USES SECTION 6 (B) OF THE ANNEX TO THE 1946 AGREEMENT. WHILE OUR INITIAL READOUT IS THAT THIS ARGUMENT IS UNPERSUASIVE AND EVEN IRRELEVANT, NONETHELESS, WE WOULD LIKE TO RECEIVE ANY AMPLICATION GOB MIGHT PROVIDE RE THIS POINT.

4. ACTION REQUESTED: EMBASSY SHOULD INFORM APPROPRIATE GOB AUTHORITIES SUBSTANCE THIS MESSAGE. POINT TO STRESS IS THAT USG VIEWS THESE PAN AM FARES AS VALID FOR IMMEDIATE EFFECTIVENESS SINCE NO GOB NOTICE OF DISSATISFACTION EVER ISSUED ON THEM. WE HAVE SO INFORMED PAN AM.

5. COMMENT: GOB SEEMS TO BE ECHOING ECAC REFRAIN IN PARA 1, REF B. IF SO, IT WOULD NOT BE CONSISTENT WITH PREVIOUS GOB ATTITUDE RE ECAC. WE SEE SEVERAL POSSIBLE EXPLANATIONS FOR CURRENT GOB ACTION ON PAN AM FARES:

- 1) GOB HAS RETURNED PARTLY, AT LEAST, TO THE ECAC FOLD;
- 2) GOB FOR SAKE OF ECAC COLLEAGUES, IS GOING THROUGH MOTIONS OF REJECTING PAN AM FARES, BUT HAS LEFT ITSELF PROCEDURAL LOOPHOLE WHICH IT CAN USE ULTIMATELY TO APPROVE THE FARES;
- 3) GOB IS MAKING AN ISSUE OF THESE FARES IN ORDER TO OBTAIN USG CONCESSIONS ON OTHER MATTERS.

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DEPARTMENT WOULD APPRECIATE EMBASSY COMMENTS AND EVALUATION GOB MOTIVATION THIS ISSUE. VANCE

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